

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency After Notice

Rule making related to the updated 2023 9% qualified allocation plan

The Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35.

Purpose and Summary

The updated 2023 9% Qualified Allocation Plan (9% QAP) sets forth the purposes of the plan, administrative information required for participation, threshold criteria, selection criteria, post-reservation requirements, the appeal process, and compliance monitoring. The plan also establishes the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the QAP are available upon request from the Authority and are available electronically on the Authority’s website at www.iowafinance.com. It is the Authority’s intent to incorporate the updated 2023 QAP by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on September 21, 2022, as **ARC 6543C**.

The Authority did not receive comments on the Notice but did receive comments on the draft QAP. The draft QAP was posted on the Authority’s website for public comment beginning September 9, 2022, and remained open for public comment until October 6, 2022. Pursuant to Treasury regulations, a public hearing regarding the draft QAP was held on October 6, 2022. The Authority received comments asking the Authority to include a permanent supportive housing set aside, which has been included in prior years. Because the Authority has other incentives for permanent supportive housing in the draft QAP and because the permanent supportive housing set aside has not been utilized consistently, the Authority declined to make this change. The draft QAP allowed a higher project cap over previous years. Based on comments the Authority received, the project cap was reduced from the proposed amount, but is still an increased amount over previous years, to account for increased construction costs. Previous QAPs have included negative points for developers that missed deadlines. The draft QAP inserted positive points for making deadlines to provide an incentive to meet deadlines. The Authority received comments expressing concern that the positive scoring could disadvantage developers who do not have an active project. In response, the Authority removed the positive points from the draft QAP. A number of other commenters requested clarification of language in the draft. The Authority provided the clarification requested.

The dates of incorporation in this rule making have been revised to indicate the date that final changes to the 9% QAP were adopted by the Authority.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on

November 10, 2022, because the rule confers a benefit on the public; specifically, the tax credits governed by Chapter 12 will likely increase the supply of affordable housing in the state.

Adoption of Rule Making

This rule making was adopted by the Authority on November 2, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit Program has had a substantial positive impact on employment in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on November 10, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 12.1(2) as follows:

12.1(2) Nine percent qualified allocation plan. The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 2023 9% Qualified Allocation Plan ("9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits ~~awarded in 2020~~, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. ~~The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 First Amended 9% Qualified Allocation Plan ("first amended 9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits awarded in 2021, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP and the first amended 9% QAP are~~ is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~November 6, 2019~~ November 2, 2022. ~~The first amended 9% QAP does not include any amendments or editions created subsequent to February 3, 2021.~~

ITEM 2. Amend subrule 12.2(2) as follows:

12.2(2) 9% QAP. The 9% QAP ~~and the first amended 9% QAP~~ can be reviewed and copied in ~~their~~ its entirety on the authority's website at www.iowafinance.com. Copies of the 9% QAP ~~and the first amended 9% QAP~~, the application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's

website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~November 6, 2019~~ November 2, 2022. ~~The first amended 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of February 3, 2021.~~ Additionally, both the 9% QAP and the first amended 9% QAP ~~incorporate~~ incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

[Filed Emergency After Notice 11/10/22, effective 11/10/22]

[Published 12/14/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 12/14/22.